

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

LYNN N. EALY,

Defendant.

Case No. 1:05-CR-58

Hon. Richard Alan Enslen

ORDER

Defendant Lynn N. Ealy was convicted by jury of tax evasion and sentenced in January 2006 to a term of 24 months imprisonment, two years supervised release and restitution in the amount of \$84,174. His conviction and sentence were affirmed on appeal by Order of the Sixth Circuit Court of Appeals filed on April 20, 2007. He has since filed an appeal of a recent order denying him relief pursuant to Federal Rule of Civil Procedure 60(b). Defendant has now moved for leave to proceed *in forma pauperis* with respect to such appeal.

This Court previously denied Defendant leave to appeal *in forma pauperis* as to other appeals of post-conviction motions by its Order of January 16, 2007. Then, as now, Defendant's supporting affidavit failed to account for the disposition of valuable property in his possession at the time of sentencing.

THEREFORE, IT IS HEREBY ORDERED that Defendant Lynn N. Ealy's Motion for Leave to Proceed *in Forma Pauperis* (Dkt. No. 97) is **DENIED** and the Court finds pursuant to Federal Rule of Appellate Procedure 24(a)(4)(C) that Defendant is not permitted to proceed *in forma pauperis* regarding his recent Notice of Appeal (Dkt. No. 96) due to his lack of indigence.

IT IS FURTHER ORDERED that the Clerk shall transmit a copy of this Order to the Sixth Circuit Court of Appeals in accordance with Rule 24.

IT IS FURTHER ORDERED that Defendant shall pay the appellate filing fee, \$455, required for his recent Notice of Appeal (Dkt. No. 96) to the Clerk within 30 days of this Order. Defendant is advised that the failure to timely pay the fee may result in dismissal of the appeal.

DATED in Kalamazoo, MI:
August 1, 2007

/s/ Richard Alan Enslen
RICHARD ALAN ENSLEN
SENIOR UNITED STATES DISTRICT JUDGE